HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 14467 of 2002

Dated 4th July, 2002

Between

M.Hemadri @ Chitti

…Petitioner

and

Government of AP, rep. By its Prl.Secretary,
Home Department, Secretariat, Hyderabad, and, ors.

…Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 14467 of 2002

ORDER:

In this Writ Petition, the petitioner has questioned the action of the respondents in opening rowdy sheet against him under the A.P. Police Standing Orders, on the file of the Station House Officer, Chittiir Taluq Police Station, Chittoor District.

It is stated in the affidavit filed in support of the Writ Petition that the petitioner is a lorry driver and is also a Member of the Gram Panchayat, Murukumbat village. It is stated that a case was registered against him in Crime No. 75/98 on the file of the Station House Officer, Chittoor Taluqu Police station, and, he was convicted for the alleged offence under Sections 326, 324, 147 and 427 IPC and was sentenced to undergo simple imprisonment for 6 months and to pay a fine of

Rs.1000/-. It is further stated that aggrieved by the same, the petitioner had preferred Criminal Appeal No. 152 of 2001 on the file of the I Additional District Sessions Judge, Chittoor and the same is pending consideration. It is the case of the petitioner that the said case was registered due to some civil disputes between him and the Mandal Vice President, namely Sri Sampath. It is the grievance of the petitioner that with reference to the said solitary incident only, rowdy sheet is opened against him and the same is contrary to the provisions of the AP Police Standing Orders.

Counter affidavit is filed on behalf of the respondents. While admitting that only one case was registered against the petitioner, it is stated that the petitioner was involved in number cases and some of them were not reported due to fear of the petitioner.

As per A.P. Police Standing Order—742, rowdy sheet can be opened against the persons who habitually commit offences involving breach of peace. But however, in this case, it is stated that only one case was registered against the petitioner. Even as per the counter affidavit also, there is no other case registered against the petitioner. It is stated that, as against the conviction ordered by the trial Court in Crime No. 75/98, the petitioner preferred Criminal Appeal and the same is pending consideration. But however, with reference to the said solitary incident of involvement of the petitioner in the said crime, it cannot be construed that the petitioner is an habitual offender within the meaning of AP Police Standing Order-742. The Word 'habitually' is interpreted by this Court and Apex Court in several cases to the effect that as it is repeatedly or persistently, and, also it implies, thread of continuity stringing together, and, similar repetitive acts. As such, it is not in dispute that the petitioner was involved in only one crime and

in absence of any other cases registered against the petitioner, opening of rowdy sheet against the petitioner is illegal and arbitrary, and, runs contrary to the AP Police Standing Order 742.

Further, the very same aspect is considered by this Court in the case of *Ejaz Vs. Government of Andhra Pradesh*[1], wherein a learned Single Judge of this Court has interpreted the Standing Order No. 742 of the AP Police Standing Orders and held that as per the said Standing Order, a person's involvement in more than two cases on the allegation of involving in lawless activities resulting in breach of peace should be in existence to open a rowdy sheet against that person. In this case, it is to be seen that only one case is registered against the petitioner. As such, classification of the petitioner as an habitual offender is contrary to the provision under the AP Police Standing Order-742, and, therefore, rowdy sheet opened against the petitioner is fit to be quashed.

In view of the judgment of this Court referred above, and, in absence of the petitioner's involvement in any other cases, the rowdy sheet opened against the petitioner on the file of the third respondent-Police Station is quashed. However, it is made clear that if the petitioner is involved in any other cases, it is always open to the authorities to make fresh assessment about the necessity of taking action under the AP Police Standing Orders.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATE: 04-07-2007
Msnr.

[1] 1998 (2) ALT 469